Ohio Legislative Service Commission

Todd A. Celmar

Fiscal Note & Local Impact Statement

Bill: H.B. 432 of the 128th G.A.

Date: March 8, 2010

Status: As Introduced

Sponsor: Rep. Pryor

Local Impact Statement Procedure Required: No — Permissive

Contents: Creates the Shared Work Unemployment Compensation Program

State Fiscal Highlights

Ohio's Unemployment Compensation Trust Fund

- Potential increase in the state's unemployment tax receipts deposited into the trust fund from private employers whose experience rate increases as a result of payments of benefits under a shared work plan.
- Potential increase or decrease in expenditures from the trust fund to pay benefits to employees under the Shared Work Unemployment Compensation Program.
- Potential increase in the amount of future trust fund dollars needed to pay back the principle amount of any additional borrowing from the federal government to fund benefits under the program.

State funds

- Potential increase in expenditures to reimburse the trust fund for benefits paid under a shared work plan implemented by state agencies and to pay interest on money borrowed from the federal government.
- Increase in administrative costs for the Ohio Department of Job and Family Services to implement and oversee the program. Administrative funds for unemployment programs are provided to the state from the federal unemployment tax on employers.

Local Fiscal Highlights

- Potential increase in expenditures to reimburse the trust fund for benefits paid under a shared work plan implemented by local government entities.

Detailed Fiscal Analysis

The bill creates the Shared Work Unemployment Compensation Program. An employer wanting to participate in the program must submit a shared work plan to the Director of Job and Family Services that satisfies the requirements specified in the bill. The employer must certify in the plan that the reduction in work hours is in lieu of temporary lay-offs. Under a shared work plan, employees who are members of an affected unit share the work remaining after a reduction in the employees' normal weekly hours of work.

The weekly benefit amount is equal to the employee's regular weekly benefit amount for total unemployment multiplied by the percentage of reduction of the employee's wages under the plan. The weekly benefit amount cannot exceed the state's annually established maximum level based on the number of allowable dependents claimed.[1]

Costs of benefits

If an employer decides to reduce the total hours of a work unit, the employer could lay off one or more employees or, as allowed under the bill, distribute the reduction in work hours across a unit under a shared work plan. If the total number of hours reduced is the same (i.e., lay-off of one full-time person or a 40-hour reduction spread across a unit), the total cost of the unemployment compensation benefits paid out under a lay-off or shared work scenario would be about the same. If the total number of hours reduced is less than the number of hours lost from a lay-off, the cost of benefits under the shared work plan would be less than under a lay-off, and vice versa. In other words, the effect that shared work plans would have on unemployment benefits depends upon the number of reduced hours under the plans relative to the number of reduced hours under temporary lay-offs.

Some employers may currently be functioning under reduced hours and the employees whose hours have been reduced do not receive partial unemployment benefits.[2] If those employers choose to participate in the program, there would be a net increase in the amount of benefits paid out of Ohio's Unemployment Compensation Trust Fund, since employees not currently collecting benefits could do so under a shared work plan.

---

[1] The Ohio Department of Job and Family Services categorizes a claimant into one of three dependency classifications. The three classifications and maximum weekly benefits are: Class A (no dependents) $372, Class B (1 to 2 dependents) $452, and Class C (3 or more dependents) $503.

[2] For an individual to be considered "partially unemployed," the individual's total pay for a week must be less than the maximum amount the individual could receive for total unemployment.

Funding benefits

State and local government

State law classifies employers into one of two categories – a "reimbursing" employer or a "contributory" employer. Reimbursing employers generally include most public employers and nonprofit organizations that have elected to be reimbursing employers instead of contributory employers. Reimbursing employers are billed once a month, after the fact, for the amount of benefits paid to the employer's former employees from the Unemployment Compensation Trust Fund. Any increase in expenditures from the trust fund to pay benefits to employees of these employers would be financed by the employer through reimbursement to the trust fund, the same as if the employer instituted a lay-off. Therefore, any state agency or local government entity that implements a shared work plan will experience an increase in expenditures to reimburse the trust fund for benefits paid on its behalf.

Private employers

Most private employers are contributory employers. Thus, if a contributory employer must pay on a claim, payment of the unemployment compensation benefit is paid from the employer's account in the trust fund. The state tax rate ranges from 0.7% to 9.4% paid on the first $9,000 of each employee's taxable wage. The actual rate for each employer differs depending on the employer's "experience" of unemployment claims paid from the employer's account. Any action an employer takes to reduce hours under a shared work plan that results in unemployment compensation benefits being paid will likely affect the employer's state tax rate when it is reassessed the following year, the same as if an employer instituted a lay-off. The bill may result in an increase in state unemployment tax receipts deposited into the trust fund from private employers whose experience rate increases as a result of payments of benefits under a shared work plan.

Effects of borrowing

Unemployment benefits are paid from state unemployment taxes paid by employers. The Ohio Department of Job and Family Services (ODJFS) collects the tax and deposits the revenue into a clearing account which is then transferred to a federal bank account, the Unemployment Compensation Trust Fund. On January 12, 2009, Ohio's trust fund balance was depleted and the state began borrowing from the federal government to pay unemployment benefits. As of March 3, 2010, the state has borrowed $2.06 billion from the federal government. When the state is in a borrowing situation, new or increased benefits must be paid from the state's current unemployment tax receipts. The benefits extended to individuals under the Shared Work Unemployment Compensation Program may reduce the amount available to pay current benefits and increase the amount the state must borrow to pay other unemployment benefits.

Principle and interest

The principle on amounts borrowed must be paid from Ohio's trust fund once a balance is restored; interest must be paid from state resources. The American Recovery and Reinvestment Act of 2009 waived interest on federal borrowing for unemployment compensation benefit payments through December 31, 2010. Effective January 1, 2011, interest on these loans will begin to accrue, with the first interest payment due on September 30, 2011. Any additional borrowing that results from the Shared Work Unemployment Compensation Program that is not paid back by December 31, 2010 will increase the amount of trust fund dollars that will be utilized to pay back the principle and state resources that will be needed to pay interest on those amounts.

Federal Unemployment Tax Act credit

Employers pay a Federal Unemployment Tax Act (FUTA) tax of 6.2% on the first $7,000 of payroll per employee, but may receive a FUTA credit of 5.4 percentage points if the state is meeting federal requirements. As Ohio is currently in compliance, the effective FUTA rate for Ohio employers is 0.8%. The credit is affected by the state's borrowing from the federal government.

After two years of borrowing, employers in the state will begin to lose 0.3 percentage point of the credit each year. After the third year, the U.S. Department of Labor (DOL) may accelerate the tax credit rescission and reduce the credit by up to 1.3 percentage points each year until the credit is fully rescinded. States may be eligible for a cap on the credit reduction if, during the 12-month period that ends September 30th of the taxable year in which the state would like the cap to apply, the state does not take any actions that will reduce the state's unemployment tax effort or decrease the net solvency of the state's Unemployment Compensation Trust Fund. Actions that fall under these restrictions include, but are not limited to, reducing the taxable wage base, tax rate schedules, tax rates, or taxes payable as well as increasing benefits without at least an equal increase in taxes or decreasing benefits without at least an equal decrease in taxes.[3]

As stated earlier, benefits paid under a shared work plan would be financed by an increase in the employer's state tax rate in the succeeding year. Therefore, enactment of the Shared Work Unemployment Compensation Program would not affect the state's ability to cap the reduction in the tax credit.

Administration

According to ODJFS, the start-up costs for the program will be about $2 million, which may include hiring additional staff. Administrative funds for unemployment programs are provided to the state from the federal unemployment tax on employers. Ohio receives a set grant based on DOL workload estimates. Each quarter, DOL provides "above-base funding" for costs that exceed the estimated costs to administer

---

[3] 20 CFR § 606.21(a) and (b).

unemployment programs. These dollars are deposited into the Unemployment Compensation Fund (Fund 3V40) and are expended from line item 600678, Federal Unemployment Programs. The additional amount the state would receive as a result of the Shared Work Unemployment Compensation Program will depend on the actual increase in ODJFS's workload to implement a protocol for receiving and reviewing shared work plans and to process shared work claims.

HB0432IN.docx / cm